

### **REMARKS**

Claims 1-8 are pending in the application. Claims 1, 4, 7 and 8 have been amended herein. Favorable reconsideration of the application, as amended, is respectfully requested.

The title of the invention has been amended to incorporate the Examiner's recommendation.

Regarding the Information Disclosure Statements filed on August 1, 2006, July 17, 2008 and April 21, 2009, and the non-English references submitted therewith, applicant notes the Search Reports (and English translations thereof) also cited in the IDSs. Such Search Reports indicate the degree of relevance found by the foreign office for the convenience of the Examiner.

#### ***I. ALLOWABLE SUBJECT MATTER***

Applicant acknowledges with appreciation the noted allowability of claims 2, 3, 5 and 6. These claims will be in condition for allowance upon being amended to independent form and to overcome any indefiniteness rejection.

#### ***II. REJECTION OF CLAIMS 1-8 UNDER 35 USC §112, 2<sup>nd</sup> ¶***

Claims 1-8 stand rejected under 35 USC §112, second paragraph, as being indefinite. Regarding claims 1, 4, 7 and 8, the Examiner indicates that it is unclear what is meant by "recording the real-time data in a circular manner". The Examiner indicates it is unclear what is meant by "circular manner".

In response, applicant has amended claims 1, 4, 7 and 8 to refer to the recording of the real-time data using a "one-way recording method" as opposed to referring specifically to a "circular manner". As is noted in the present application at page 1, lines 24-27, for example, a circular recording method may be considered a one-way recording method. By referring to a "one-way recording method" in the claims, applicant respectfully submits that any issue with respect to the language "circular manner" becomes moot.

The Examiner also objects to the language in claims 1, 4, 7 and 8 referring to the search for the unassigned area for recording the non-real-time data also being performed in "the second area within the first area". The Examiner indicates it is unclear what is meant by "within the first area".

Applicant notes that the relevant language refers to the aspect of the invention whereby the control device or method also searches for an unassigned area for recording the non-real-time data in the second area which is within the first area. However, since the independent claims already recite that the second area is "defined in advance within the first area", it may be considered superfluous to refer to the search for the unassigned area also being performed in the second area "within the first area". Accordingly, applicant has deleted "within the first area" in each of the independent claims. The claims now refer simply to searching for the unassigned area in the second area.

Claims 1, 4, 7 and 8 have been further amended as discussed below to make even clearer the features of the invention. For at least the above reasons, applicant respectfully requests that the rejection under 35 USC §112, second paragraph, be withdrawn.

### **III. REJECTION OF CLAIMS 1, 4, 7 AND 8 UNDER 35 USC §103(a)**

Claims 1, 4, 7 and 8, as understood by the Examiner, stand rejected under 35 USC §103(a) based on *Kato et al.* Applicant respectfully request withdrawal of the rejection for at least the following reasons.

The present invention can be understood to be directed towards searching a second area within a first area as a consequence when no unassigned area can be found for recording in the first area that does not encompass the second area. Claims 1, 4, 7 and 8 have been amended to clarify further this particular aspect of the invention.

For example, amended claim 1 recites *inter alia*:

wherein a leading address of the first area is smaller than a leading address of the second area, and the search for the unassigned area for recording the non-real-time data is also performed from the leading address of the second area if the unassigned area is not found between the leading address of the first area and the leading address of the second area. (Emphasis Added)

Support for such amendment may be found, for example, in Fig. 1 and the corresponding description at page 10, lines 6-33 of the specification.

As amended, the claims call for a leading address of the first area be smaller than a leading address of the second area. This clarifies that the first area is provided with a leading address that is smaller than the leading address of the second area, and therefore when search is performed for an unassigned area for recording the non-real-time data, it is to be understood that search is performed first in the region of the first area (e.g., partition 100a) that does not encompass the second area (e.g., partition 100b).

Accordingly, the claim language points out that search in the second area is performed only if an unassigned area is not found between the leading address of the first area and the leading address of the second area.

Kata et al. does not teach or suggest the aforementioned features. Specifically, paragraphs [0033-0037] of *Kato et al.* disclose that recording tracks in a hard disk are divided into sectors from the start edge to termination and numbered sequentially as 0, 1, 2, ..., etc. Consequently, sector 1 or subsequent sectors in *Kato et al.* are assigned to each musical piece (real time data), and the sector of the head of each musical piece is used as a header area for recording header information (non-real time data). See, e.g., paragraphs [0035] and [0036] of *Kato et al.*

As Fig. 2 and the corresponding description of paragraphs [0035-0037] of *Kato et al.* disclose, non-real-time information (header information) is preferentially recorded at the head of each sector. Therefore, the invention of *Kato et al.* performs search from the leading area of the second area irrespective of whether an unassigned area can be

found between the leading address of the first area and the leading address of the second area.

Therefore, in requiring that the head of each sector be used for recording non-real-time information, *Kato et al.* teaches away from the presently claimed invention, which only searches from the leading address of the second area within the first area if the unassigned area is not found between the leading address of the first area and the leading address of the second area.

Such features as recited in amended claims 1, 4, 7 and 8 are instrumental in realizing a solution to the problem of writing normal data other than audio/video data, which occurs when recording is performed dispersedly on an optical disc. Specifically, the present invention is advantageously made to provide a higher priority to the recording of non-real time data even if the recording positions of the non-real-time data are apart from each other in the case where both real time and non-real time data are to be recorded. (See, e.g., p. 2, Ins. 24-31 of the present application).

Specifically, it is noted that based on the amended claim language, for the recording of real-time data a search for an unused area is performed only within the second area (e.g., circular recording recommended area 100b) within the partition 100a (the first area), as explained on page 9, line 12 to page 10, line 4 of the present application. Additionally, during the recording of non-real-time data, an unassigned area will be searched for within the whole of partition 100a (explained, for example, on page 10, line 6 to page 11, line 30 of the application). Accordingly, this has the effect that when there does not exist sufficient unassigned area for recording non-real-time data, recording can be performed in the circular recording recommended area. In this manner the present invention is better able to effectively utilize the unassigned areas according to the status of the use of the optical disc.

For at least these reasons, applicant respectfully requests withdrawal of the rejection.

**IV. CONCLUSION**

Accordingly, all claims 1-8 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

/Mark D. Saralino/

Mark D. Saralino  
Reg. No. 34,243

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The Keith Building  
1621 Euclid Avenue  
Nineteenth Floor  
Cleveland, Ohio 44115  
(216) 621-1113